

## City Planning Commission Communication

Department: Community Development  Case #AN-17-001  Applicant: Gerald Torczon T S Development LLC 11205 S 150th Street, Suite 100 Omaha, NE 68138  Property Owner: T S Development LLC 11205 S 150th Street, Suite 100 Omaha, NE 68138  Representative: Charles Huddleston Schemmer Associates 928 Valley View Village, Suite 12 Council Bluffs, IA 51503	Resolution No. _____	Planning Commission: 8/8/17
<b>Subject/Title</b> <b>Request:</b> Voluntary annexation of 26.62 acres (m/l) located in Lewis Township, being part of the SW1/4 NW1/4 of Section 4-74-43 and part of the SE1/4 NE1/4 of Section 5-74-43, Pottawattamie County, Iowa (as more particularly described on Attachment 'A').  <b>Location:</b> Northwest corner of Greenview Road and Franklin Avenue intersection.		
<b>Background</b> The Community Development Department has received a request from Gerald Torczon, on behalf of T S Development, LLC, for voluntary annexation of a tract of land located in the SW1/4 NW1/4 of Section 4-74-43 and the SE1/4 NE1/4 of Section 5-74-43 (see Attachment 'A'). The tract consists of 27.26 acres of land of which 26.62 acres are proposed to be voluntarily annexed into the City. The applicant intends to build a mixed-use (commercial/residential) project on the subject 26.62 acres in association with their Whispering Oaks Subdivision to the adjacent north and west. The remaining 0.64 acres are proposed to create a 20' x 314.19' and a 20' x 1086.30' strip of unincorporated land between the subject annexation area and the north right-of-way line of Greenview Road (see Attachment 'B'). This strip of unincorporated land is necessary to prevent an "island" of County jurisdiction within the City limits. Section 368.7.3 of the Iowa Code prohibits a city from creating an island(s) of unincorporated area as part of an annexation.		
<u><b>Zoning and Land Use</b></u> The area proposed for annexation is zoned R-3/Urban Residential in the County. The abutting property within the City's limits is zoned R-1/Single Family Residential District (see Attachment 'C'). Section 15.27.030 Annexed Territory of the Council Bluffs Municipal Code of Ordinance (Zoning Ordinance) states that <i>"annexed land shall retain the same zoning classification after annexation that it had prior to annexation. Those regulations shall remain in place until the City completes the legislative action to rezone the property"</i> .		

The subject property is identified as 'City Service Area I' within the *Two-Mile Limit Area Policy Agreement between the City of Council Bluffs and Pottawattamie County* (as adopted in 1995 and as amended). Acceptable land uses within a 'City Service Area I' include: agriculture, open space and recreation, public, one and two-family residential, multi-family residential, commercial and industrial. The Future Land Use Plan in the Bluffs Tomorrow: 2030 Plan designates the subject annexation area as Low Density Residential. The applicant's intent to develop the subject annexation area with a mixed-use subdivision is generally consistent with both of these plans.

#### Annexation Procedure

Chapter 368 of the Iowa Code sets out the procedure for municipal annexation of territory and the required notifications needed before City Council action on the annexation. The public hearing is scheduled for the September 11, 2017 City Council meeting.

1. A consultation hearing with the Pottawattamie County Board of Supervisors and Lewis Township Board of Trustees was held on August 1, 2017. Rose Brown, Council Bluffs Planning Coordinator and Christopher Gibbons, Council Bluffs Planner attended the hearing. No one with the Pottawattamie County Board of Supervisors or the Lewis Township Board of Trustees attended the hearing. A written recommendation for modification can be made no later than seven days after the consultation. Any written recommendation for modification that is received within the time period will be included in the report for City Council consideration. In addition, no later than 30 days after the consultation the Board of Supervisors may present a resolution to the City Council in favor or opposition of the requested annexation.
2. On July 21, 2017, all adjoining property owners outside of the City were notified of the Planning Commission public hearing to be held on August 8, 2017 and the date for the City Council public hearing on September 11, 2017.
3. Notice of the voluntary annexation request will be published in the Nonpareil and mailed to the Chair of the County Board of Supervisors, all effected utilities and each adjoining property owner not already inside the City limits at least 14 business days prior to said City Council public hearing.
4. Following public hearing by the City Council, the resolution taking action on the annexation is filed with the Secretary of State. The annexation is not final until acknowledged by the Secretary of State.

#### **Comments**

1. The subject annexation area abuts one property that is located outside of the current City limits. The property is owned by the City of Council Bluffs/Council Bluffs Water Works and contains an existing water tower. Notification of the proposed annexation request was mailed to Mr. Doug Drummey, CEO/General Manager of the Council Bluffs Water Works. No comments have been received from Mr. Drummey regarding the proposed annexation.
2. All City Departments and local utilities were notified of the proposed annexation request. No adverse comments have been received from any City Department or local utility regarding the proposed annexation.

#### **Recommendation**

The Community Development Department recommends voluntary annexation of the property as legally described in Attachment 'A'. The Community Development Department finds the following:

1. This annexation is consistent with the voluntary annexation procedure set forth in the Chapter 368 of the Iowa Code.
2. The area proposed for annexation adjoins the City's corporate boundary and reduces the amount of property located within the area that is not currently located within the City.
3. The proposed annexation will not create an island of County land surrounded by the City or restrict potential future annexation in any direction.

4. The proposed annexation creates the most uniform boundary possible under the current Iowa state laws governing the annexation of property.
5. City services will not be adversely affected if the land is annexed.
6. The proposed annexation is consistent with the future land use map of the *Two-mile Limit Area Policy Agreement*.
7. The proposed annexation is in the best interest of the City.

Attachment A: Annexation plat map and legal description

Attachment B: Map and legal description of area to remain unincorporated

Attachment C: Location and zoning map

Prepared by: Christopher N. Gibbons, AICP, Planner